

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NATIONAL STEEL CAR LIMITED,

Plaintiff,

V.

FREIGHTCAR AMERICA, INC.,
FREIGHTCAR NORTH AMERICA,
LLC, JAC OPERATIONS INC., and
FCA-FASEMEX, LLC

Defendants.

C.A. No. 1:24-00594-JLH-CJB

PUBLIC VERSION

**DECLARATION OF JUSTIN J. GILLETT IN SUPPORT OF DEFENDANTS’
MOTION FOR STAY PENDING *INTER PARTES* REVIEW**

I, Justin J. Gillett, declare as follows:

1. I am a member of the Bar of the State of California and am admitted *pro hac vice* to practice before this Court. I am an attorney with the law firm Knobbe, Martens, Olson & Bear, LLP and I represent Defendant FreightCar America, Inc. in the above-captioned case. I have personal knowledge of the matters set forth herein, and if I am called upon to testify, I could and would testify competently thereto.

2. The parties held a 26(f) conference in this case on September 27, 2024. *See* Fed. R. Civ. P. 26(d)(1) (“A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order.”). NSC propounded its first discovery requests in this case on December 20, 2024.

3. Attached hereto as Exhibit 1 is a true and correct copy of a Decision Granting Institution of *Inter Partes* Review of U.S. Patent No. 8,166,892, filed December 16, 2025, as Paper 27 in the matter styled as *FreightCar America, Inc. v. National Steel Car Limited*, No. IPR2025-01046, before the U.S. Patent and Trademark Office, Patent Trial and Appeal Board.

4. Attached hereto as Exhibit 2 is a true and correct copy of a Decision Granting Institution of *Inter Partes* Review of U.S. Patent No. 8,132,515, filed December 16, 2025, as Paper 27 in the matter styled as *FreightCar America, Inc. v. National Steel Car Limited*, No. IPR2025-01047, before the U.S. Patent and Trademark Office, Patent Trial and Appeal Board.

5. Attached hereto as Exhibit 3 is a true and correct copy of a Decision Referring the Petitions in IPR2025-01046 and IPR2025-01047 to the Board and Denying Institution of *Inter Partes* Review in IPR2025-01048, filed October 10, 2025, in the matters styled as *FreightCar*

America, Inc. v. National Steel Car Limited, Nos. IPR2025-01046, IPR2025-01047, and IPR2025-01048, before the U.S. Patent and Trademark Office, Patent Trial and Appeal Board.

6. Attached hereto as Exhibit 4 is a true and correct copy of excerpts of a cover document for NSC's Initial Claim Charts in this case dated March 6, 2025.

7. Attached hereto as Exhibit 5 is a true and correct copy of excerpts of the transcript of a Markman hearing held in this case on November 18, 2025.

8. Attached hereto as Exhibit 6 is an automated redline tracking changes from claims 1, 3–4, and 6–7 of U.S. Patent No. 8,166,892 to claims 40–44 of U.S. Patent No. 8,132,515.

9. Attached hereto as Exhibit 7 is a true and correct copy of a Memorandum Order filed as D.I. 210 in the case styled *NEC Corp. v. Peloton Interactive, Inc.*, No. 1:22-cv-00987 (D. Del. Apr. 9, 2024) (Burke, M.J.).

10. Attached hereto as Exhibit 8 is a true and correct copy of an excerpt containing D.I. 253 of the docket in the case styled *Midwest Energy Emissions Corp. v. Arthur J. Gallagher & Co.*, No. 1:19-cv-01334 (D. Del. Dec. 10, 2020) (Burke, M.J.).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 29, 2025 in Irvine, CA.

/s/ Justin J. Gillett

Justin J. Gillett